
New Hampshire
Department of Environmental Services
2004 ANNUAL REPORT
Fiscal Year Ended June 30, 2004

Pursuant to RSA 20:7



November 2004





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Introduction

I am pleased to release the department's fiscal year *2004 Annual Report*, which highlights many of our significant accomplishments of the past year. This report details the financial and staff resources necessary for the Department of Environmental Services to carry out its mission of *sustaining a high quality of life for all residents by protecting and restoring the environment and public health in New Hampshire*.

This year's accomplishments include progress in such areas as outreach and assistance to the business community; innovative programs, initiatives, and voluntary partnerships; and timely and effective clean-up efforts. In addition, the report provides a summary of the legislation that was relevant to DES's mission during the last legislative session.

It is clear that these achievements would not have been possible were it not for the combined and effective efforts of many state and federal agencies, proactive organizations and businesses, and dedicated volunteers working in partnership with DES. It is through such collaboration that New Hampshire has maintained such a high quality of life.

I hope that you find the Department of Environmental Services *2004 Annual Report* informative, and encourage you to visit our website at www.des.nh.gov to learn more about the department's many programs and initiatives.

~ Michael P. Nolin, *Commissioner*



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Mission Statement, Guiding Principles and Goals

MISSION

The mission of the Department of Environmental Services is to help sustain a high quality of life for all citizens by protecting and restoring the environment and public health in New Hampshire.

DES GUIDING PRINCIPLES

The Department of Environmental Services will carry out its mission in partnership with the public, businesses, government, environmental community, and many other organizations by:

- * Promoting mutual respect and effective, straightforward communications, within and outside of the agency.
- * Providing timely and consistent responses to all customers.
- * Encouraging meaningful opportunities for public participation in meeting its responsibilities.
- * Integrating environmental quality, public health and safety, and economic vitality, and considering the concerns and aspirations of all citizens, while pursuing its responsibilities under the law.
- * Striving for high levels of effectiveness in all operations based on a commitment to continuous improvement and an openness to innovative approaches.
- * Facilitating scientifically and technically sound, cost effective, and environmentally appropriate solutions.
- * Leading the state government's environmental and sustainability initiatives.
- * Considering the long-term, cumulative, and cross-media effects of its policies, programs, and decisions.
- * Fostering environmental awareness and stewardship through education, outreach, and assistance.
- * Affording fair and equitable treatment of all New Hampshire citizens in the implementation of federal and state environmental laws, rules, programs, and policies, and in the management of the agency.
- * Maintaining a work environment that attracts and retains the most dedicated and talented staff.
- * Minimizing environmental and human health risks to the greatest extent possible, especially for our most vulnerable populations.

DES GOALS

1. Clean Air

The air we breathe in New Hampshire is safe and healthy for all citizens, including those most vulnerable, and our ecosystems are free from the adverse impacts of air pollution.

2. Clean Water

All of New Hampshire's lakes and ponds, rivers and streams, coastal waters, groundwater, and wetlands are clean and support healthy ecosystems, provide habitats for a diversity of plant and animal life, and support appropriate uses.

3. Safe Drinking Water

All drinking water in New Hampshire will always be safe, available and conservatively used.

4. Proper Waste Management & Effective Site Remediation

Promote responsible waste management and ensure wastes/regulated materials are properly handled and disposed. Conduct prompt remediation to restore contaminated sites to productive use while protecting the environment and public health.

5. Protection of Natural Habitat

The sustainable development of New Hampshire's lands and natural resources is promoted throughout the state while protecting the diverse wildlife habitat, and unique features that make New Hampshire an attractive place to live, work, and visit.

6. Dam Safety and Water Management

The state's surface and groundwater resources are managed and regulated for the protection, enhancement and restoration of environmental quality and public safety to support and balance social and ecological water needs.

7. Effective Management and Leadership

DES sets and achieves the highest standards for effective internal management, fiscal responsibility, and leadership on environmental issues.

8. Pollution Prevention

Encourage best efforts to prevent pollution before turning to recycling, treatment and/or disposal of the materials causing pollution. Eliminate or reduce the toxicity and absolute volumes of waste materials. Eliminate accidental pollutant releases to the environment. Conserve materials, energy, and water in order to move toward a sustainable society.

9. Public Education, Outreach and Partnerships

DES provides effective public education, outreach, and partnership activities.

10. Compliance Assurance

In order to foster full compliance with the laws it administers, DES provides education and outreach to the public, provides assistance to the regulated community, monitors compliance on an on-going basis, and maintains a fair and effective enforcement process.

11. Information Management

Information is collected, managed, analyzed, and disseminated effectively and efficiently to support well informed, timely and cost-effective environmental decision-making.



Major Accomplishments in FY 2004

Special DES Initiatives

Attacking MtBE on multiple fronts

DES has worked with the Legislature and Governor's Office over the past several years to develop strategies to reduce methyl tertiary-butyl ether (MtBE) in gasoline and protect the state's drinking water supplies. In October 2003, DES Commissioner Nolin and Governor Benson announced their full support of the Attorney General's Office in its lawsuit against 22 major oil companies for widespread contamination of state waters with the gasoline additive MtBE.

The lawsuit, against companies such as ExxonMobil Corporation and Lyondell Chemical Company, alleges that the oil companies chose to add MtBE to gasoline sold in the state despite their knowledge that MtBE was likely to contaminate water supplies and that it is a defective product. It also alleges violations of state environmental and consumer protection laws. MtBE can cause a foul odor and taste in drinking water at low concentrations and can pose health risks to people at higher levels. The Attorney General and the State of New Hampshire are asking the court to hold the oil companies responsible for this contamination, to pay for the costly investigation and cleanup, and to pay reparations for the injury to our natural resources.

Additionally, the U.S. Environmental Protection Agency (EPA) has announced its intention to approve New Hampshire's request to opt out of the federal Reformulated Gasoline Program (RFG). Final approval would signify dramatic progress in the effort to eliminate MtBE from the state's gasoline supply.

DES has adopted its own fuel program, known as Oxygen Flexible Reformulated Gasoline

(OFRFG). OFRFG is a market-based approach that allows gasoline suppliers the flexibility to sell gasoline that provides the same air quality benefits as RFG, with lower levels of MtBE. EPA's final approval is contingent upon comments received from the petroleum industry, national stakeholders, and the public.

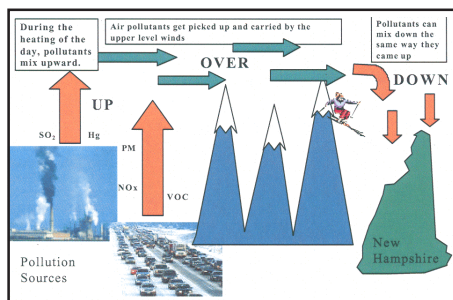
The issues relating to MtBE are complex and difficult ones. However the availability of the new regional rules to achieve emissions reductions from alternate sources and the recent implementation of MtBE bans in California, New York, and Connecticut give us options that were unavailable three years ago. Governor Benson and our state legislators are to be commended for taking the steps necessary to remove MtBE from our gasoline. These steps will drive regional and national actions to force fuel providers to find substitutes that are cost-effective and provide equal air quality benefits without sacrificing our water quality.

DES's new fuel rule was part of an effort begun in 2001 to find a regional solution. It was hoped that other states in the region would buy into the program, thus encouraging fuel providers to find a substitute for MtBE in the gasoline sold in the Northeast. To date, this has not happened, resulting in continued use of gasoline that contains the higher MtBE levels. However, an EPA approved opt-out should make for an easier transition to another strategy to replace the air quality benefits of RFG.



Air pollution transport report released to fanfare

In May 2004, DES released a significant report titled *Air Pollution Transport and How It Affects New Hampshire*. The Attorney General and DES Commissioner Nolin joined Governor Craig Benson in releasing this report which presents an eye-opening assessment of the impacts of air pollution from out-of-state sources on New Hampshire's public health and economy. Though scientific research has already shown that air pollution blows with the wind over great distances, this report is the first to actually quantify direct health-related costs and identify other impacts on



the state's residents and businesses from transported pollution.

According to the report, New Hampshire experiences an average of ten

days per year when the air quality is officially categorized as unhealthy. During periods of unhealthy air quality for ozone and small particle pollution, approximately 92 percent to nearly 100 percent of this pollution comes from sources located outside of New Hampshire, based on technical analysis done by DES. This transported air pollution is estimated to result in direct health-related costs to the state of approximately \$1 billion per year. In addition, many businesses operating within the state will have to pay the costs of increased healthcare, decreased worker productivity resulting from air pollution-induced respiratory problems, and increased compliance with more stringent regulations as a result of unhealthy air.

The report also examines and compares various proposals and actions being considered at the federal level to address the problem of air pollution transport. It describes the effects of these proposals and looks at certain federal clean air laws and regulations that are not being consistently enforced and are in jeopardy of being weakened.

It is hoped that this report will add support for New Hampshire's efforts already underway to hold both industry and federal regulators responsible for protecting New Hampshire's residents from upwind polluters. The report concludes that "unless meaningful federal legislation and regulations are adopted and effective emission controls are applied nationally, health impacts will increase, the cost borne by the people and businesses of the state will continue to rise and overall quality of life in New Hampshire will suffer."

The full report is available on the DES website at www.des.nh.gov/ard/Pollution-Transport/ or by contacting Kathy Brockett at (603) 271-6284 or kbrockett@des.state.nh.us.

DES takes active role in state's Homeland Security efforts

To adequately protect public health and the environment, it is critical that DES and other state agencies work in concert with one another to ensure our natural resources are protected for the benefit of those who rely upon them.

As a member of the N.H. Commission on Preparedness and Security, DES has focused its energies on enhancing its state of readiness in the areas of dam safety, oil and hazardous waste response, solid/infectious waste investigations, air quality monitoring, drinking water security, wastewater operations, and laboratory services.

Below is a partial list of DES Homeland Security activities currently being pursued.

- Partnership with the U.S. Coast Guard to protect against and/or respond to coastal oil spills, as well as providing information on potential terrorist targets near the state's Seacoast, rivers and lakes. Development of an incident action plan for liquid petroleum gas vessels coming in and out of Portsmouth Harbor.
- Performance of onsite audits of airborne toxics at stationary sources (e.g., power plants, industries, commercial businesses) to ensure compliance with the Risk Management Program.
- Inspection of hazardous waste transport

vehicles and their operators, HAZMAT training/cross-training for addressing releases from weapons of mass destruction, and stockpiling spill response equipment around the state in the event of an emergency.

- Implementation of a nationwide pilot grant to train officials at small and medium-sized public drinking water systems.
- Local wastewater treatment system operators trained by DES in ways to enhance security and emergency preparedness.
- Completion of the new environmental laboratory wing to accept and analyze

terrorism samples.

- Dam safety training by the Federal Emergency Management Agency, and adaptation of an assessment procedure developed by the Federal Energy Regulatory Commission.
- Implementation of the 2001 cross-border agreement between New Hampshire and Quebec to address shared issues in the event of terrorist threats or attacks.

For more information on DES's security activities, contact Tim Drew, DES Public Information and Permitting Administrator, at (603) 271-3306 or tdrew@des.state.nh.us.

Innovative Programs and Partnerships

DES helps broker public-private partnership between Colebrook and Casella Waste Systems, Inc.

Agreement signed to close and remediate town landfill

Under the oversight of DES, the Town of Colebrook and Casella Waste Systems, Inc. signed an agreement this past year to begin a comprehensive closure of the town landfill and groundwater remediation of the surrounding area. This agreement is the first such Public-Private Partnership (PPP) to be implemented in New Hampshire for an existing landfill closure. DES is hopeful that the Colebrook/Casella partnership will become an example that other municipalities may be able to incorporate into similar landfill situations.

The 14-acre Colebrook landfill operated as a municipal solid waste landfill from the 1977 to November of 1993. Between 1992 and 2003 the town, with DES, began developing a final closure plan for the landfill. Under the agreement, the remaining capacity of the landfill, estimated at approximately 225,000 tons, will be utilized to provide enough income for the closure and remediation of the landfill site. Casella Waste Systems will provide the waste disposal, construction and

operational services to implement the plan, while the town provides the site and obtains the necessary permits to implement the closure program.

Overall, the project would provide an approximately \$3.0 million benefit to the town to cover the cost of capping the landfill, as well as active groundwater remediation of a contaminated groundwater plume that has migrated onto a sensitive environmental area within the Town of Columbia and threatens a site purchased under the state LCHIP process to protect endangered plant species. In addition, other benefits received from the agreement include solid waste disposal services during the remaining life of the landfill, road and other infrastructure improvements, and a comprehensive septage disposal study for addressing the needs of the town and surrounding area.

The state benefit includes savings of approximately \$600,000 in state-aid grants, as well as not having to provide the entire project financing from the State Revolving Loan Fund.

Fish sampling program on the Lamprey River completed

Baseline fish community defined

Each day during the last week of August 2003, as many as 26 staff from four agencies captured, identified and released hundreds of fish,

measured water quality parameters and stream flow, and documented features of the Lamprey River. Fish were captured in Lee and Durham to define the baseline fish community (BFC) in a portion of the Lamprey River.

BFC sampling describes the fish types and the percent each species represents of the whole fish population, at the time of the sampling. The data show what fish species exist in the various habitats within the Lamprey River. The numbers and types of fish provide a reference condition specifically for the Lamprey and for fisheries studies in general. It is important to remember that BFC results don't necessarily represent the ideal fish community.



Conducting fish sampling on the Lamprey River.

Neither does the baseline fish community represent the historical fish community. It is, however, an important step in river management and provides valuable information for the instream flow study being conducted in 2004-2005. Four collection methods were applied at 43 stations on 13 miles of river to sample the available habitats proportionately. This project is the most comprehensive to date in coverage on the river, both by the number and frequency of stations, and by types of habitat investigated.

The comprehensive fisheries data of the BFC project is also valuable to other state and federal agencies and to fisheries researchers. DES was joined by EPA, U.S. Fish and Wildlife, N.H. Fish and Game, and the Massachusetts Division of Fish and Wildlife in designing and carrying out the sampling plan on the designated reach of the

Lamprey River. The National Park Service, the Lamprey River Local Advisory Committee and the Lamprey Watershed Association also assisted in the project. Many property owners on the river in Lee and Durham graciously allowed access across their land to the samplers.

River restorations succeed through public-private partnerships

DES has helped to facilitate a number of dam removals in the state, with two being removed this year and a third in the discussion stage. A great number of dams were built across the state during the 19th and early 20th centuries to harness power for the mills on the state's many rivers. Today, however, many of these same dams have become public safety hazards and obstructions to migratory fish, paddlers and others. An integral element of each successful dam removal has been the collaborative effort of a diverse partnership of public and private sponsors with a shared dedication to restore the health of New Hampshire's rivers.

In addition to the West Henniker dam discussed later in this report, the DES River Restoration coordinator and Dam Maintenance crew were instrumental in the removal of the Bearcamp River Dam in South Tamworth, which opened up 28 miles of river to flow unobstructed by manmade structures. Over the years the dam had greatly deteriorated and changed ownership several times. In the interest of a long-term solution, the dam owner chose to remove the dam with the assistance of the New Hampshire River Restoration Task Force. The Task Force is a collaboration of state and federal agencies, conservation groups and other interests, including DES, N.H. Fish and Game Department, Public Service of New Hampshire, U.S. Fish and Wildlife Service Partners for Fish and Wildlife, FishAmerica Foundation, Norcross Wildlife Foundation, U.S. Environmental Protec-



Removing the Bearcamp River Dam.

tion Agency, Saunders Brothers Inc., and Trout Unlimited.

DES has also been instrumental in the preliminary discussions of the Homestead Woolen Mills Dam in Swanzey. After several years of debate and discussion, work has begun on a study that will ultimately lead to a decision on the future of the privately-owned dam. The 94-year old dam, located on the Ashuelot River in Swanzey, must either be removed or repaired to meet state dam safety requirements. The Homestead Dam blocks migratory and resident fish from accessing high quality habitat – fish that have been the focus of restoration efforts in the Connecticut River Basin for nearly 40 years. But, removal of the dam could affect the integrity of a historic village district, including a mill complex, covered bridge, and prehistoric Native American fish weir.

In an effort to enable a well-informed and locally-based decision on the dam's future, DES has contracted out a comprehensive feasibility study on the structure and its surroundings. The study is coordinated with assistance from the Town of Swanzey, N.H. Division of Historical Resources, N.H. Fish and Game Department, NOAA Restoration Center, and the U.S. Fish and Wildlife Service. Public participation is a key component to ensuring that the study will be thorough, accurate and responsive to the community's needs.



Homestead Woolen Mills Dam in Swanzey.

The battle to eradicate milfoil

Through the efforts of U.S. Senator Judd Gregg, New Hampshire will benefit from \$1.09 million in federal funding obtained this year to stem the spread of milfoil in the state. The lions' share of the money, \$1 million will be used by DES to identify how milfoil grows under various lake

conditions; to test newly developed herbicides; to examine if native plant species can affect milfoil's growth; and to develop educational material designed to increase awareness on the dangers of milfoil. The N.H. Lakes Association will receive \$90,000 to expand its milfoil "Lake Host" program from 38 to 55 sites across New Hampshire. The program works to encourage boaters to take steps to prevent the spread of milfoil.



Variable milfoil.

Variable milfoil is the number one exotic weed problem for lake residents, visitors and aquatic plant managers in New Hampshire. Spreading at a rate of one to three new waterbodies each year, the plant is on the move, and taking over lakes at an alarming rate. Current management strategies are short-lived, and lake residents and managers are becoming increasingly more frustrated with the problem.

To learn more about the plant, the habitats it invades, and possible longer-term control measures, the DES Exotic Species Program is in the process of coordinating six research teams to use the federal funding for research on this plant.

Research will focus on two key areas: risk assessment and management/control. Three of the six projects will focus on examining various aspects of water quality data and sediments to determine commonalities between environmental and spatial data as they pertain to variable milfoil populations in New Hampshire and beyond. Some genetics work will also be involved in identifying milfoil species. With this information, DES hopes to be able to better predict the characteristics of lakes, ponds, and rivers that can support variable milfoil growth. In waterbodies with the key characteristics, efforts at prevention and early detection of variable milfoil will be increased.

The remaining three projects will focus on various aspects of control, including herbicide bioassays, biological control, and plant replacement techniques. The goal here is to find herbicides and biological controls that are most effective on

stemming variable milfoil growth in waterbodies, while avoiding impacts to non-target species. It is hoped that if variable milfoil populations can be kept in check through the use of herbicides and biological controls, then native plants may have a better opportunity to grow in these lakes and limit the growth of variable milfoil.

Research is expected to begin in spring 2005, with final reports and recommendations submitted to DES in September 2006. For more information on the research grants, and proposed projects, please visit our website at www.des.nh.gov/wmb/exoticspecies, or call (603) 271-2248.

Protecting the Great Bay Estuary and helping the Seacoast region meet its growing wastewater needs

Senate Bill 70 created the Great Bay Estuary Study Commission in 2003, for the purpose of determining the feasibility of forming a sewer district for communities of the Great Bay watershed. Representatives from some of the 47 communities that surround the estuary (such as Durham, Portsmouth, Rochester, and Dover) as well as other area stakeholders have formed the Study Commission, chaired by Senator Russell Prescott, to undertake a wastewater management project. This project will address the growing wastewater disposal concerns in their region, help them maintain compliance with stringent federal disposal standards, and protect the Great Bay Estuary – an invaluable natural resource for the region. The overall goal is to achieve restoration of the Great



Bay estuary habitat.

The Great Bay Estuary, known as the “jewel of the New Hampshire seacoast,” is located in one of the state’s fastest-growing regions and also borders part of Maine. The estuary is a tidally dominated embayment covering approximately 17 square miles with a 144-mile shoreline. Some of the municipal wastewater treatment plants located in the Seacoast Region discharge treated wastewater into streams that empty into the ecologically sensitive Great Bay Estuary.

To enable these communities to combine their resources to address these challenges, the legislature authorized DES to administer the project on behalf of the Study Commission. The legislature appropriated \$1 million in the DES Capital Budget for a Regional Outfall Study.

DES retained Metcalf & Eddy to conduct the 18-month study that will help the Study Commission determine how to dispose of treated wastewater, as well as handle, treat, and dispose of the growing volume of septage in the study area.

Outreach to Business

DES implements new hazardous waste management self-certification program

DES initiated a self-certification program for small quantity generators of hazardous waste in New Hampshire under RSA 147-A:5, IV. The N.H. Legislature established the new program in 2003 to improve the compliance of small quantity generators (SQGs) with existing hazardous waste management requirements. SQGs are businesses and other entities that generate less than

220 pounds (100 kilograms, approximately 26 gallons of most liquids) of hazardous waste in each and every month.

The newly implemented law requires SQGs to review their hazardous waste management procedures, conduct a self-inspection of their facility, and certify compliance to DES. The agency provides free workshops to assist SQGs with their efforts to comply with the new law.

The statute also requires each SQG to certify compliance every three years and to pay a fee of \$60 per year, payable every three years at the time of certification. The program is being implemented in three phases to create a manageable and consistent workload. SQGs in Rockingham and Strafford Counties were the first to receive the self-certification package mailed last October.

Releases from SQGs have created about a third of the hazardous waste sites in New Hampshire over the last five years. SQGs have been subject to inspection by DES staff since the early 1980s, but with about 5,000 hazardous waste generators in the state, it became clear that DES could not assure the compliance of such a large group of generators by continuing with the typical inspection and enforcement model to deter non-compliance. This new program allows small quantity generators to become more active environmental stewards, to become more aware of the *Hazardous Waste Rules*, and to be able to self-certify their compliance, thereby offering greater protection to our public health and the environment.

DES will conduct follow-up inspections at a statistically valid number of the SQGs selected at random to measure their performance. For more information or for assistance, SQGs can visit the DES website at www.des.nh.gov/sqg/, or call DES staff toll-free, in-state at 1-866-HAZ-WAST (1-866-429-9278) or (603) 271-2942.

DES signs streamlined regulatory agreements with NH printers

Agreements are part of an EPA pilot program (PrintSTEP) to create an alternative environmental regulatory system tailored to the printing industry.

Earlier this year, the DES Small Business Technical Assistance Program signed agreements with Cummings Press of Hooksett, Moore Wallace of Manchester, and Upper Valley Press located in North Haverhill to participate in a unique voluntary pilot program designed to streamline the regulatory and permitting processes for their businesses. The Printers Simplified Total Environmental Partnership (PrintSTEP) allows printers to address air, water, and hazardous waste permitting

and regulations all at once through a single notification or agreement.

The ultimate goal of PrintSTEP is to help the printing industry achieve cleaner, cheaper, and smarter environmental protection through the creation of a simple regulatory framework.



New Hampshire is one of three states selected by the U.S. Environmental Protection Agency to conduct this innovative pilot program. Beside the three companies that signed comprehensive PrintSTEP agreements, 57 smaller printing companies that have less of an environmental impact, qualified to participate in a simple PrintSTEP Notification process.

Green Paint Program hits stride in state

Environmentally friendly disposal of paint products encouraged

For years, DES's Household Hazardous Waste Program has answered more questions about how to dispose of paint than any other household waste product. In response to the growing need for this information, they successfully initiated a "green" paint public-private education campaign on the proper methods of disposing of surplus household and commercial paint. The campaign, a partnership between DES and paint retail stores in New Hampshire, has been distributing informational materials to educate consumers at the point-of-purchase about the possible disposal problem that may result from unwanted leftover paint.

Due to the way paint is packaged, priced, and used, the consumer generally purchases more paint

than they need, and ends up with left over paint. There is a tendency for the homeowner to hang on to leftover paint “just in case” they may need some for a touch up job in the future and because there may not be a convenient disposal option. However, the simple rule of thumb for disposing of paint is as follows:

- Latex paint can be disposed of in your trash once it has dried completely.
- Oil-based paints, stains, varnishes, and paint thinners should be disposed of properly at HHW collections. These products present different hazards to the environment and should never be dumped down the drain, sewer, or on the ground, nor left to air dry.

In addition to educating the public about proper disposal methods, the goal of the education campaign is to effect behavioral changes that can lead to a reduction or the elimination of the amount of oil and latex paint that is disposed of, thereby decreasing the cost and environmental impact of these wastes to the community. Consumers should consider the following tips before purchasing paint:

- Purchase less toxic products.
- Purchase recycled products.
- Purchase only what you need.
- Use all purchased paint.
- Donate extra paint to someone that can use it.
- Store only small amounts for future use, if necessary.

The campaign is continuing to reach out and add more paint retail stores to its list of partners. Certain stores, such as Capital Paint and Wallpaper and A&B Lumber both in Concord have been instrumental in helping the campaign get rolling. The stores provide consumers with a number of informational items, including paint can stickers, paint stirrers, and informational brochures that contain helpful tips on paint disposal. More information on the “green” paint education campaign can be found on our website at www.des.nh.gov/Paint/, or call (603) 271-2047.

Efforts to increase use of alternative fuels gain momentum statewide

Cranmore Mountain Resort and Rymes Oil announce biodiesel “firsts” in NH

Biodiesel, a renewable, non-toxic biodegradable replacement for petroleum diesel, is gaining acceptance as a viable alternative fuel option in New Hampshire. DES and the Granite State Clean Cities Coalition, a public/private partnership of 50 stakeholders statewide dedicated to increasing the use of alternative fuels in the state of New Hampshire, orchestrated two significant biodiesel “firsts” in New Hampshire over the last year. This winter, Cranmore Mountain Resort switched to biodiesel to power all of its snow grooming machines – the first Eastern winter resort to adopt this alternative fuel. And in April, Rymes Propane and Oils, Inc. established the first mass distribution system for biodiesel fuel in the state.

Biodiesel reduces visible emissions tremendously, providing cleaner air. It can be made from plant and animal sources, from soy oil to grease, and reduces greenhouse emissions. Biodiesel has a higher lubricity than old-fashioned diesel, improving operation cleanliness resulting in less wear and tear on motor vehicles.



Congressman Jeb Bradley, Asst. Commissioner Mike Walls, and Cranmore GM Ted Austin standing in front of the biodiesel snow cats.

Compliance/Remediation and Cleanups

DES undertakes two projects to restore West Henniker mill area

Old mill site cleaned up; dam removed

The historical West Henniker village district was once a vibrant 18th century industrial community, the centerpiece of the Town of Henniker. Situated on the Contoocook River, this area once supported a succession of woolen, grist and saw mills, as well as the Contoocook Valley Paper Mill, which operated from 1871 until bankruptcy forced its closing in 1987. Just upstream, the West Henniker dam impounded and diverted water to power the paper mill. Soil contamination from waste paper sludge buried on the mill site and a deteriorated dam that had out-lived its usefulness, left town officials with ownership of two expensive problems.

Up to 2,000 cubic yards of the sludge severely contaminated with hazardous heavy metals was buried on the mill site, adjacent to the Contoocook River. This sludge, visible at the ground surface and buried at depths of up to nine feet, posed a serious public health and environmental threat. Henniker town officials acquired the abandoned property in the early 1990s for possible future reuse, but development of the site was hindered by the presence of the contamination. DES's Brown-fields team then offered technical assistance to the town by conducting site investigations to fully characterize the environmental contamination at the site. Due to the hazards posed by the sludge and the high cost of removal, DES requested the assistance of the EPA Region I, Office of Remediation and Restoration. The removal of contaminated soil and sludge was completed by the end of October 2003. Following confirmation sampling, final site restoration took place.

The removal of the 10-foot high, 130-foot long West Henniker Dam reconnected a 15-mile stretch of the Contoocook River for the first time in at least a century. The removed dam was built in 1936, although previous dams are known to have existed in the general area as early as the 1780s. The Town of Henniker took ownership of the property for unpaid taxes and learned in 2000 that the dam was

in need of significant repair to meet state dam safety requirements. Recognizing the obsolete dam as a financial and legal liability, the town requested DES

assistance in removing it. The entire project was made possible by financial and technical assistance from a diverse public-private partnership with a shared dedication to restoring the Contoocook River, improving recreational opportunities and eliminating a public safety hazard. The DES River Restoration Program coordinated the project and the DES Dam Maintenance Crew conducted the physical removal of the dam.

Plans for the 12-acre riverfront property, which include ideas for green space, a hand-carry boat launch, interpretive signage and walking trails, are currently under discussion in the community.



Remediation work at the former Contoocook Valley Paper Mill in West Henniker.

Cleanups continue at Superfund sites; EPA presents Brownfield grant in Keene

In spring 2004, the US Environmental Protection Agency offered settlements to approximately 800 parties, including companies and municipalities in New Hampshire, Massachusetts and Rhode Island. The offers gave these parties an opportunity to resolve their Superfund liability for the **Beede Waste Oil Superfund site** as soon as possible, while contributing to the cost of cleaning up this heavily contaminated site.

This was EPA's fourth formal settlement at the 40-acre toxic waste site in Plaistow, which was extensively contaminated from the 1920s to when the facility closed in 1994. This settlement represents a continued large-scale effort by EPA to provide many smaller volume contributors of

hazardous waste with an opportunity to avoid often lengthy Superfund negotiations. The individual settlement offers are based on the amount of waste each party contributed, resulting in settlement amounts ranging from \$2,000 to \$140,000.

To date, EPA and DES have spent a combined \$21.5 million for cleanup and investigation work at the site. EPA has established a dedicated hotline, email address and website to assist potential settlers. They are: (888) 294-6980; beede@bah.com; and www.epa.gov/region01/superfund/sites/beede.

EPA also completed its five-year review of the **Tibbetts Road Superfund site** in Barrington in late October 2003. The results of the study have shown that the cleanup remedy is functioning as intended and that there has been a reduction in the overall level of contamination at the site.

DES and EPA have found an additional continuing source of groundwater contamination at the **Kearsarge Metallurgical Corp.** Superfund site in Conway. Excavation and disposal of this area of contaminated soil were completed in fall 2003. In

addition, the existing extraction system was improved with the installation of a larger trench in the source area.

For more information about the Superfund program in New Hampshire, please contact Carl Baxter, DES, at (603) 271-2908.

In the fall of 2003, the U.S. Environmental Protection Agency awarded \$200,000 to the Southwest Regional Planning Commission in Keene to help assess, clean and redevelop abandoned, contaminated parcels known as brownfields. Under the Brownfields Program, communities and other entities receive funding to assess contamination at abandoned and vacant sites and to estimate the costs of cleaning up sites for redevelopment. Since 1995, EPA has provided more than \$67 million of Brownfields assistance to dozens of communities and agencies around New England. For more information on the state's Brownfields Program, please contact Mike Wimsatt at (603) 271-6422, or go to www.des.nh.gov/BrownfieldsNH?.

Federal Partnerships

Troy Mills Landfill added to Superfund list

The U.S. Environmental Protection Agency, with the assistance of DES, is currently in the middle of removing over 10,000 buried drums containing various hazardous wastes from the former Troy Mills Landfill. EPA committed \$8 million to conduct this work after adding the site to the National Priorities List, commonly known as Superfund, in September of 2003. Thanks to the collaborative efforts of DES, EPA and New Hampshire's congressional delegation, the cleanup at the landfill is on pace to be one of the fastest in the history of the New England Region.

The Troy Mills Landfill (also called the Rockwood Brook Landfill), which is owned by Troy Mills, Inc., is located about 1.5 miles south of the center of Troy off a dirt road on the company's mostly wooded 270-acre property. The 11-acre landfill was used from 1967 to 2001 as an industrial waste disposal area by the owner, a local fabric

manufacturer. From 1967 to 1978, two acres were used to dispose of up to 11,000 drums of liquid wastes and sludges containing Varsol, vinyl resins, plasticizers, pigments, top-coating products and industrial organic solvents. After 1978, the remaining nine acres were used to dispose of waste fabric scraps and other solid waste from the company's manufacturing complex. EPA and the state identified elevated levels of metals, volatile organic compounds (VOCs), and semi-volatile organic



Piles of waste fabric scraps at the Troy Mills Landfill site in 1989 prior to clean up.



Also this year: Chris Simmers, Information Technology Leader for DES, accepts a "Shirt Off My Back" award on behalf of DES from Kim Nelson, EPA Chief Information Officer. The ceremony took place in March at Manchester Water Works.

compounds (SVOCs) leaking from waste at the landfill, endangering the downstream fisheries, recreation areas, and wetlands.

Under the supervision of DES, Troy Mills, Inc. completed several detailed design studies until the company filed for bankruptcy protection in 2001 and could not follow through with approved cleanup plans. For more information on DES's on-site cleanup efforts, please contact John Splendore at (603) 271-5569.

Update on Fraser Papers at Berlin-Gorham mills

In March 2004, DES officials met with officials from the City of Berlin and Fraser Papers to present DES's reasons for proceeding with listing of the Cell House site on EPA's CERCLIS. The site contains elevated mercury and lead in the soil. Elemental mercury has also been observed in bedrock fissures along the Androscoggin River. As of March, DES has expended about \$500,000 for site investigations at the site and mercury removal from the river banks. EPA has received information necessary to begin the listing process.

Fulfilling an agreement reached with DES and EPA as part of the 2002 purchase of the Berlin-Gorham mills, Nexfor Fraser Papers has also put

systems in place to significantly reduce air emissions from its pulp mill operations. A key component of the environmental improvements is a new boiler at the Berlin facility that replaces two more-polluting, less efficient boilers.

The controls will reduce sulfur dioxide emissions by over 85 percent, and particulate matter and nitrogen oxide emissions by over 80 percent. The boiler will also destroy 1,560 tons per year of methanol being removed from the pulping and chemical recovery processes. In addition to removing the methanol, the new steam stripper will remove 98 percent of the total reduced sulfur compounds from the pulping processes and send it to the boiler for destruction, reducing odors at the Berlin Pulp Mill.

The boiler is connected to a new 25-megawatt steam-driven turbine generator, which allows the facility to generate its own power and send excess power to the New Hampshire electric grid, saving overall energy costs.

The installation of the new boiler to remove methanol and odorous gases from the pulping processes, in combination with two major water recycling projects at the Berlin-Gorham mills, represents an investment of over \$35 million by Nexfor Fraser Papers. This

demonstrates the company's commitment to improving the environment while at the same time providing much needed upgrades to the infrastructure of its facilities.



Officials and media tour Nexfor Fraser Papers during a press event to announce a new boiler at the Berlin facility.

Also this Year

DES laboratory enters new phase of construction

Parts of the State laboratory were able to move to the newly constructed wing in early March. Reconstruction of the original lab wing has already begun and the major demolition work will begin shortly. Work in the area will take place in two phases with construction expected to last for another year. As work progresses, lab staff and their instruments will be relocated to one or more temporary areas as their new workstations are prepared.

When the construction is completed, the lab, which includes the Public Health Labs, the Pari-Mutuel Commission, and the Department of Agriculture laboratories, DES Laboratory and Limnology Center, will be able to offer its clients improved services from its modern facility.

DES opens improved air monitoring station in Pittsburg

Other air monitoring stations upgraded statewide

The air monitoring station located at Murphy Dam on Lake Francis, Pittsburg has been operating since 1997 as a joint effort between DES and the Appalachian Mountain Club (AMC). Over the past year, the station has been improved to better control site conditions and obtain higher quality data. The data collected at this site is used for air quality reporting, statewide health protection, and tracking and documenting air pollution transport. The station measures concentrations of ground-level ozone, the key ingredient in summer-time smog. Meteorological conditions are also recorded, including outside temperature, wind speed and wind direction. In addition, plans are underway to include measurements of small particles, which cause adverse health affects and interfere with visibility. Daily air quality information on ground-level ozone and small particle pollution is available year-round on the DES website at www.airquality.nh.gov or by calling the toll-free Air Quality Information line at 800-935-SMOG. Significant improvements and/or upgrades have been made over the last year at the Peirce

Island, Gilson Road and Pack Monadnock monitoring stations, as well.

Wetland mitigation rules new and improved

Since the late 1980s, DES has been issuing dredge and fill permits with conditions that relate to wetland creation, restoration and upland preservation. In the mid-1990s, an evaluation of wetland mitigation in New Hampshire was conducted and resulted in recommendations for state policy. Mitigation for loss of wetland function is necessary to retain the environmental quality that is important to the state. Recognizing that a consistent application of the policy would make the process more predictable and fairer to applicants, DES proceeded with formal rule making with the help of various steering committees over several years.

As a result in early 2004, a new chapter and modifications of three existing sections of the state's wetland rules were adopted and established mitigation requirements for certain impacts to wetlands. These new rules provide specific criteria for compensatory mitigation and clarify that compensatory mitigation is required for all impacts to jurisdictional areas that meet or exceed a specified threshold level. In addition, the language requires avoidance and minimization of wetland impacts prior to consideration of compensation, and provides a ratio table that details the amount of compensation needed relative to the resource being lost. The establishment of standard acreage ratios provides predictability and a level playing field for the applicant that was previously missing from the process. The ratios reflect an assessment of the relative degree of uncertainty concerning successful functional replacement, and include a compensatory factor to cover the temporal loss of wetland function. DES believes that these rules are a major step forward and that the preservation ratios that have been set are at appropriate levels to provide a legitimate mitigation value.

Information about the mitigation rules can be found at the DES website at www.des.nh.gov/wetlands/rule-law.htm#proposed.



Compliance Assurance Efforts Continue

In addition to developing innovative ways to work with our partners to improve New Hampshire's air, water, and land resources, DES undertakes on-going efforts to ensure compliance with a myriad of requirements that apply to a wide range of individuals, municipalities, and businesses.

DES has over 25 regulatory programs, including those relating to public water supplies, wastewater disposal, land development (such as wetlands dredge/fill and terrain alteration), hazardous and solid waste management, underground and aboveground petroleum storage tanks, and air pollutants emitted by sources ranging from large industries down to small open burn piles. Staff from these programs routinely inspect sites and facilities that are subject to the requirements of their respective programs, and also conduct inspections in response to complaints received from the public. If violations are discovered, DES's first goal is to ensure that the violations are corrected as quickly as possible. Often, a situation can be fully resolved without the need for any enforcement action.

If the responsible party is unresponsive to DES's requests for compliance or if the situation is more egregious, DES has a range of enforcement options available. DES uses a multi-tiered approach that includes education and outreach, compliance assistance, and, where appropriate, enforcement. Enforcement has many benefits, some of which are not as apparent as the more obvious "get the violation to stop and get the site remediated." For instance, an action that recoups the economic benefit realized by a violator levels the playing field, removing the economic advantage gained by

an out-of-compliance competitor. The threat of possible enforcement also helps to deter some would-be violators.

The factors that DES considers in determining an appropriate response, as well as the available response options, are summarized in Chapter I of the Compliance Assurance Response Policy (CARP), dated September 27, 2000. The CARP is available on-line at www.des.nh.gov/legal/carp/.

From State FY '00 through State FY '04, DES initiated an average of 455 informal enforcement actions per year and an average of 129 formal enforcement actions per year. (An informal enforcement action is a Letter of Deficiency or other non-enforceable notice of non-compliance that requests the recipient to correct the violations identified in the letter. A formal enforcement action is an administrative order, administrative fine, or referral to the Attorney General's Office for civil judicial enforcement.) In that time, informal enforcement accounted for nearly 80 percent of all enforcement actions initiated, while referrals to the AGO accounted for less than 2 percent of all enforcement actions initiated by DES and less than 8 percent of the formal enforcement actions initiated by DES.



Summaries of NHDES-related Environmental Legislation Adopted in the 2004 New Hampshire Legislative Session

HB 230 *establishing a committee to study how to improve the processes of the joint legislative*
Ch. 180 *committee on administrative rules and making certain revisions to RSA 541-A, the*
Eff. 6/1/04 *Administrative Procedure Act.*

- Establishes a committee to study how to improve the processes of the JLCAR; requires the committee to consider: developing processes to record a clear statement of legislative intent on every bill sent out of a house or senate committee OTP (with or without amendment) and to ensure that the JLCAR receives input from appropriate policy committees; adopting methods to provide for an expedited rulemaking process to adopt rule changes with minimal impact; expanding the membership of the JLCAR and establishing subcommittees of the committee; developing a training program for new JLCAR members and an educational program on rules for all house members; methods for ensuring uniformity in granting rulemaking authority and avoiding overbroad rulemaking authority provisions; revising RSA 541-A relative to fiscal impact statement requirements; the processes for rulemaking employed by the agencies that are exempt from the provisions of RSA 541-A and the effectiveness of this approach towards rulemaking; revisions to the drafting and procedure manual; revising RSA 541-A to permit the electronic filing of documents at various stages of the rulemaking process; and such other related issues as the committee deems appropriate.
- Amends RSA 541-A:13, V(a) to allow more time for an agency to respond to a conditional approval (30 days instead of 14).
- Establishes an expedited process for repealing certain rules.
- Authorizes the Director of OLS, after consultation with the Chair and Vice Chair of JLCAR, to waive any deadline contained in any provision of RSA 541-A "for good cause shown."
- DES has already requested and received a waiver of the deadline for filing a final proposal.
- DES may be asked to provide information to the study committee.

HB 516 *relative to the standard of review for requests for excavating and dredging permits,*
Ch. 2 *relative to an appropriation for the expansion of the Port of Portsmouth, and relative to*
Eff. 3/5/04 *additional powers and duties of the Pease development authority.*

- Provides that, for appeals of wetlands decisions involving NHDOT projects to the Wetlands Council and Superior Court, there shall be a rebuttable presumption that there is public need for the requested project, and that DOT has exercised appropriate engineering judgment in the project's design.
- Eliminates a contingency on an appropriation for the dredging of Hampton-Seabrook harbor.
- Grants authority for the Pease Development Authority to enter into an agreement with the Department of Army concerning the Shoreline Erosion Control Demonstration Project.
- Eliminates the bureau of marine services.
- No requirements for DES.

- HB 761** *enabling municipalities to adopt subdivision and site plan review regulations that*
 Ch. 71 *require innovative land use controls on certain lands when supported by the*
 Eff. 7/7/04 *master plan, making a change in an innovative land use control, and relative to the*
preliminary review of subdivisions.
- Adds density rights to innovative land use controls.
 - Enables municipalities to require innovative land use controls on certain lands, when supported by the master plan.
 - Gives planning boards the power to require preliminary subdivision review.
 - Removes an applicant's option to forego a pre-application review when such review is required by subdivision regulations.
 - No requirements for DES.
- HB 803-FN** *relative to the establishment of municipal economic development and revitalization*
 Ch. 181 *districts by municipalities.*
 Eff. 7/31/04
- Changes the limitations for municipalities that may create a municipal economic development and revitalization district under RSA 162-K.
 - No requirements for DES.
- HB 1131** *establishing a committee to study exotic aquatic weeds and species.*
 Ch. 115
 Eff. 5/17/04
- Establishes a statutory committee to study exotic aquatic weeds and species in the state of New Hampshire.
 - It is anticipated that DES will be asked to provide information and assistance to the committee.
 - Committee report due November 1 of each year.
- HB 1136** *relative to homeowner exemptions from certain environmental permitting, relative to*
 Ch. 116 *certification as a wetland scientist, and making certain technical corrections.*
 Eff. 5/17/04
- Exempts homeowners from certain environmental permitting, and establishes detailed qualifications to be certified as a wetlands scientist.
 - Requires DES to recognize an exemption from the dredge and fill permitting requirements for a two-year period.
 - Corrects certain statutory references.
 - No impact on DES.
- HB 1141** *relative to dioxin emissions reduction and medical waste incinerators.*
 Ch. 13
 Eff. 6/4/04
- Provides additional definitions concerning dioxin emission reductions.
 - Prohibits construction of new medical waste incinerators, and prohibits operation of existing medical waste incinerators effective January 1, 2014.
 - The environmental impact is a reduction of overall dioxin emissions from a significant source industry.
 - No requirements for DES.

HB 1148 *defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning, relative to the wetlands council appeal process, relative to Smith Pond in Enfield, and relative to site plan review of certain trails.*

Ch. 243
Eff. §5 6/15/04
§2 7/1/05

§6 12/31/05

Remainder 7/1/04

- Defines “wetlands” for purposes of RSA 482-A, fill and dredge in wetlands, and for local land use planning and regulation.
- Establishes a criterion for timely filing of an appeal to the wetlands council.
- Authorizes DES to undertake repairs to the dam and dikes impounding Smith Pond, Enfield to the extent that funding for such work is available from outside the department. DES shall first obtain consent from the dam management review committee.
- Exempts trails for snow traveling vehicles from site plan review by a planning board.
- No financial impact on DES.

HB 1160 *relative to the membership of the board of professional geologists.*

Ch. 15

Eff. 6/4/04

- Amends RSA 21-O:12, II to include the State Geologist as a voting member of the Board of Professional Geologists.
- Amends the Board’s statute to define the term and membership criteria of the State Geologist.

HB 1262 *establishing a commission to study ways to encourage municipal recycling efforts and to study the tax exemption for water and air pollution control facilities.*

Ch. 208
Eff. 6/11/04

- Establishes a commission to study ways to encourage municipal recycling efforts and to study the tax exemption for water and air pollution control facilities under RSA 72:12-a.
- It is anticipated that DES will be asked to provide information and assistance to the commission.
- Commission report due November 30, 2004.

HB 1293 *relative to emission control equipment for certain vehicles and relative to unfair motor vehicle insurance trade practices.*

Ch. 245
Eff. §3 & 5 8/14/04

§6 7/1/06

Remainder 6/15/04

- Modifies the exemptions from the emission control equipment requirements for motor vehicles.
- Essentially has an insignificant environmental impact as it exempts a very small portion of the fleet from inspection requirements.
- Department of Safety is the implementing agency for the rules related to this legislation. No requirements for DES.

HB 1295 *relative to certain court records exempting certain documents from the right-to-know law.*

Ch. 246

Eff. 8/14/04

- In any action against a governmental unit (including the State) where the governmental unit has agreed to a settlement of such action, the complete terms of the settlement and the decree

of the court judgment shall be available as a matter of public record pursuant to RSA 91-A (except that the court may redact the names of minor children or any other person the court determines to be entitled to privacy).

- Notes or other materials made for personal use that do not have an official purpose are now exempt from the right-to-know law.
- Preliminary drafts, notes, and memoranda and other documents not in their final form and not disclosed, circulated, or available to “a quorum or a majority” are now exempt from the right-to-know law.
- May affect how files are reviewed prior to release in response to Right-to-Know requests.

HB 1308 *relative to lobbying activities by state employees.*

Ch. 82

Eff. 7/1/04

- Clarifies that state employees are not required to register as lobbyists under RSA 15:1.
- Requires state employees to wear their employee identification badges when appearing in their official capacity before any legislative meeting or hearing for the purpose of promoting or opposing directly or indirectly any legislation pending or proposed before the Legislature.
- DES employees will have to wear their ID badge when testifying before the Legislature on behalf of DES.

HB 1403 *extending the reporting dates of certain study committees.*

Ch. 20

Eff. 4/5/04

- Extends the due date for several legislative studies, including a report from the diesel exhaust study committee. DES participated in the work sessions but was not asked to prepare any part of the report to be filed by the committee.
- No requirements for DES.

SB 19 *relative to notification of groundwater contamination and requiring a certain*

Ch. 101 *report from DES.*

Eff. 5/17/04

- Puts into law many of the requirements established by Exec. Order 2002-04, issued by Gov. Shaheen in 2002.
- Requires notification of abutters to properties with wells that have a documented contamination level exceeding drinking water standards.
- No significant environmental impact.
- Specific requirements for DES are:
- Provide notification of the presence of groundwater contamination to:
 - Owners of all property that contain a water supply well where the property (not the well) is within 500 feet of the well where the contamination is discovered.
 - Public water suppliers when the contaminated well is within the wellhead protection area of the public water supply.
 - Health officer of any municipality which contains property being notified.
- Notification shall be made in writing within 45 days of receiving the analytical data.
- Provide notification to the same parties listed above once the extent of the contamination is determined.
- Provide notification to the same parties listed above once the contamination has been remediated.

- Provide a report to the legislature by July 1, 2004 discussing the status of the Department's request to EPA to opt out of the RFG program.

SB 312-FN *establishing a state code of ethics.*

Ch. 214

Eff. 1/1/05

- Establishes a code of ethics for executive branch employees and officials, including restrictions on conflict of interest, misuse of position, acceptance/giving of gifts, and on employment for former public officials (no lobbying on certain bills for six months after leaving office/employment with the State).
- A benefit of the bill is that it finally defines what a prohibited gift is ("any money or thing of value received in excess of \$50 or in excess of \$250 in aggregate from any single source during any calendar year"). "Gift" does not include "meals and beverages consumed in the course of official business; ceremonial gifts or awards which have insignificant monetary value; unsolicited gifts of nominal value or trivial items of informational value; reasonable expenses for food, travel, and lodging for an in-state meeting at which the elected official or public employee participates in a panel or a speaking engagement; gifts of tickets or free admission extended to an elected official to attend charitable or political events, if the purpose of such gift or admission is a courtesy customarily extended to the office; gifts that are purely private and personal in nature; or gifts from relatives by blood or marriage, or a member of the same household."
- The legislation allows agencies to adopt a supplemental ethics code. As applied to classified employees, any ethics code must be interpreted to be consistent with the provisions of the classified employees' collective bargaining agreement.
- All agency heads and any public official designated by the agency head due to the responsibilities of the position will be required to file a financial disclosure statement.
- All DES employees and officials (Senior Leadership) will be subject to the code.

SB 342-FN *relative to payment of utility assessments, relative to regulation of electric generation*

Ch. 148 *companies, and relative to violations of gas pipeline and liquefied petroleum gas system*

Eff. 1/1/05 *regulation.*

- This was not a bill that impacts DES. DES was only following this bill because of its association with electricity deregulation and because the power generation sector represents a significant portion of air permitting activities.
- The PUC is the implementing agency for the rules related to this legislation. No requirements for DES.

SB 377 *relative to damage to land by certain recreational uses.*

Ch. 122

Eff. 5/17/04

- Limits liability of landowners who allow OHRVs to use their property, when OHRV operators fill or dredge a wetland without a permit.
- No requirements for DES.

SB 380 *establishing a state wide incident command system.*

Ch. 106

Eff. 7/16/04

- Establishes a statewide incident command system, based on the model of the National

- Interagency Incident Management System, to respond to natural or man-made emergencies.
- DES, as a member of the NH Preparedness and Security Committee, will participate in this system and fulfill its assigned emergency support functions in the new State Emergency Response Plan.
- DES's first responders will use this incident response system when natural or man-made emergencies occur that could potentially impact public health or the environment.

SB 397 *requiring DES to adopt certain rules and to eliminate certain substances from*
Ch. 175 *gasoline supplies.*
Eff. 5/27/04

- Requires DES to adopt certain rules regarding the content of consumer products and to eliminate MtBE, other gasoline ethers, and tertiary butyl alcohol (TBA) from gasoline supplies. Gasoline containing MtBE, other gasoline ethers and/or TBA above 0.5 percent by volume would be prohibited from sale in the state. The prohibition would take effect on January 1, 2007 or six months after EPA approval of the state implementation plan to opt out of the federal RFG program, whichever date is later.
- The major environmental impact (when and if the ban goes into effect) would be the effective elimination of MtBE and other ethers from gasoline. The effect of this on the state's ground-water and drinking water supplies would likely be felt within one to two years of the ban. We could expect a gradual decline over several years in the number of public water supplies affected by MtBE and other ethers. Concentrations of these contaminants in water supplies, both public and private, would drop, with the near elimination of these contaminants with time.
- Specific requirements for DES are:
 - Commence rulemaking based upon model rules of the Ozone Transport Commission for the manufacture, use, or sale of certain consumer products.
 - Seek federal approval for revision to the State Implementation Plan to opt out of the federal RFG program or to substitute the consumer products rules for the State's Oxygen Flexible Reformulated Gasoline rule.
 - Enforce the ban on gasoline ethers and TBA once the ban goes into effect.
- Report to the legislature annually, beginning on November 1, 2004 through November 1, 2008, on the status of instituting the requirements of the bill, as listed above.

SB 412 *extending a public trust grant for the Gunstock Area ski resort's snowmaking.*
Ch. 57
Eff. 7/2/04

- Extends by 15 years the date by which Gunstock Area must commence water withdrawals in order to avoid the expiration of the authorization to take water from Lake Winnepesaukee for ski area operations.
- No requirements for DES.

SB 413-FN *establishing a commission to study the construction time frame and financing for the*
Ch. 220 *expansion of I-93.*
Eff. 6/11/04

- Establishes a commission to study the construction time frame and financing for the I-93 expansion project, and report its findings on or before November 1, 2004.
- No requirements for DES.

SB 414-FN *clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations.*

Ch. 199

Eff. 6/1/05

Remainder 6/7/04

- Clarifies the authority of municipalities to adopt impact fees; clarifies the authority of municipal planning boards to impose exactions for off-site impacts.
- Clarifies how the rights of property owners may vest.

SB 432-FN *establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services, and a division of fire safety in the department of safety.*

Ch. 171

Eff. 7/24/04

- Establishes a division of emergency services, communications, and management within the department of safety.
- Combines the division of fire standards and training and the division of emergency medical services.
- In the event of natural or man-made disasters, DES will now work in conjunction with the new division to coordinate an appropriate first response and follow-up.
- DES is a member of the NH Advisory Council on Emergency Preparedness and Security, of which the new divisions are also members.
- Section 171:20 of the bill amends RSA 485:40 (NH Safe Drinking Water Act/Emergency Planning/Reference Change) and requires that plans for emergency conditions and situations that may endanger the public health or welfare by contamination of drinking water be prepared by the new division.

SB 449 *relative to fluoridation of municipally-owned public water systems.*

Ch. 225

Eff. 7/1/04

- Establishes a procedure for voting on the introduction of fluoride into public water supplies that serve multiple municipalities.
- Permits the introduction of fluoride into public water supplies that serve multiple municipalities if the voters of the municipalities vote to approve its use.
- Provides that public water supplies that serve multiple municipalities and that are currently using fluoride may continue to do so until all of the municipalities have the opportunity to vote on the use of fluoride.
- Creates a procedure for a vote in the September 2004 state primary election on the use of fluoride in the municipalities served by the city of Manchester, water works department.

SB 467 *establishing an exemption from the public sewer connection requirements for two projects in the town of Derry.*

Ch. 95

Eff. 7/10/04

- Exempts properties within 125 feet of two new sewer lines in the town of Derry from the public sewer requirements as long as they comply with state and local regulations.
- No requirements for DES.

SB 481-FN *establishing a sewer and other water-related purposes district for Great Bay.*

Ch. 258

Eff. 8/15/04

- Establishes the Estuary Alliance for Sewage Treatment (EAST), for the purpose of developing

joint public wastewater collection, treatment, and discharge systems for the disposal of treated wastewater, and for other water-related purposes, for municipalities in the Great Bay estuary and related area.

- Requires EAST to obtain legislative approval for construction of a regional outfall sewer pipe.
- This legislation names the commissioner of DES, or designee, as a member of the EAST Board of Directors.
- Directs DES to review and approve or disapprove all reports, designs, plans and other engineering documents required to apply for federal grants-in-aid or grants-in-aid from the state.

SB 487 *relative to lead sinkers.*

Ch. 172

Eff. §2 1/1/06; remainder 1/1/05

- Prohibits a person from using a lead sinker or jig while fresh water fishing; previously, use was prohibited only in fresh water ponds and lakes.
- Also prohibits the sale of lead sinkers and jigs.
- The environmental impact is protection of habitat and a reduction of lead-related deaths of loons and other waterfowl feeding in state's waters.
- No requirements for DES.

SB 488 *establishing a committee to study the effects of electric utility restructuring on state dams and the alternatives for the operation and maintenance of state-owned*

Ch. 121 *dams.*

Eff. 5/17/04

- Establishes a legislative committee to study the effects that electric utility restructuring has had on the state's hydro-lease program and the state dam maintenance fund and to study alternatives for funding the operation and maintenance of state-owned dams.
- It's anticipated that DES will be asked to provide information and assistance to the committee.
- Committee report due December 1, 2004.

SB 534-FN *relative to the reorganization of certain functions and duties of state agencies.*

Ch. 257

Eff. 6/1/04; multiple effective dates.

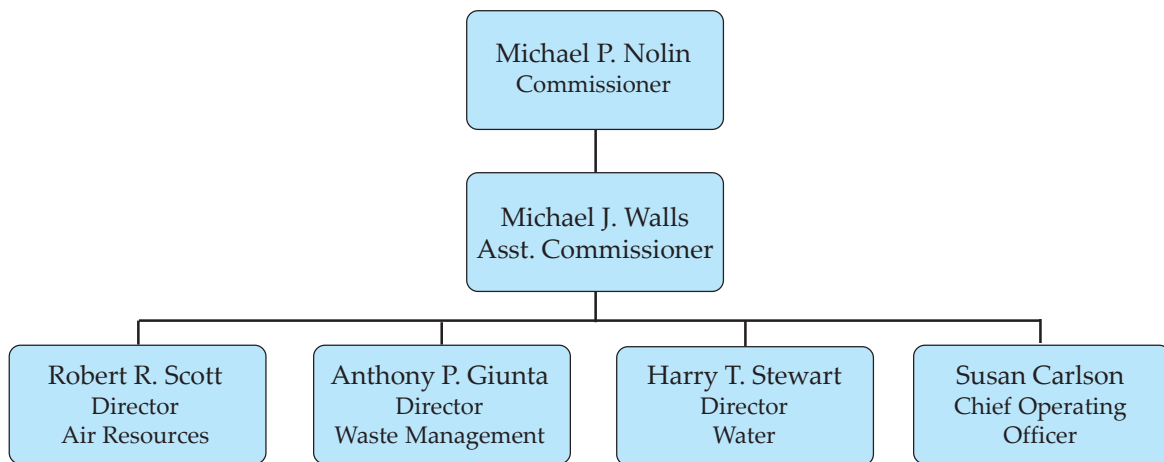
- Transfers the bureau of environmental and occupational health from the department of health and human services to the department of environmental services.
- Authorizes the commissioner of the department of environmental services to nominate the Air Resources, Water and Waste Management Division directors.
- Transfers certain programs from the office of state planning and energy programs to the department of environmental services and changes the name of the office of state planning and energy programs to the office of energy and planning.
- Requires a review of the salaries of the commissioner and assistant commissioner of the department of environmental services.



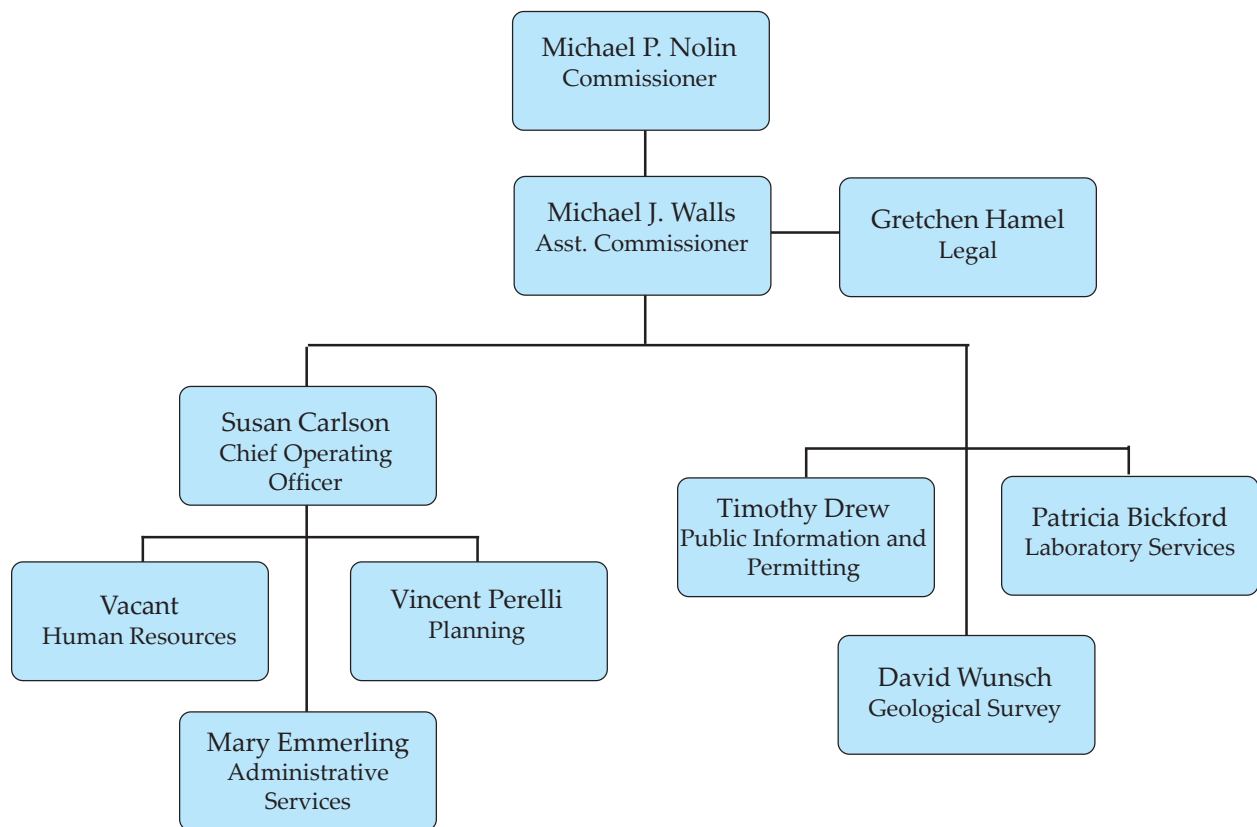
Organizational Charts

N.H. Department of Environmental Services

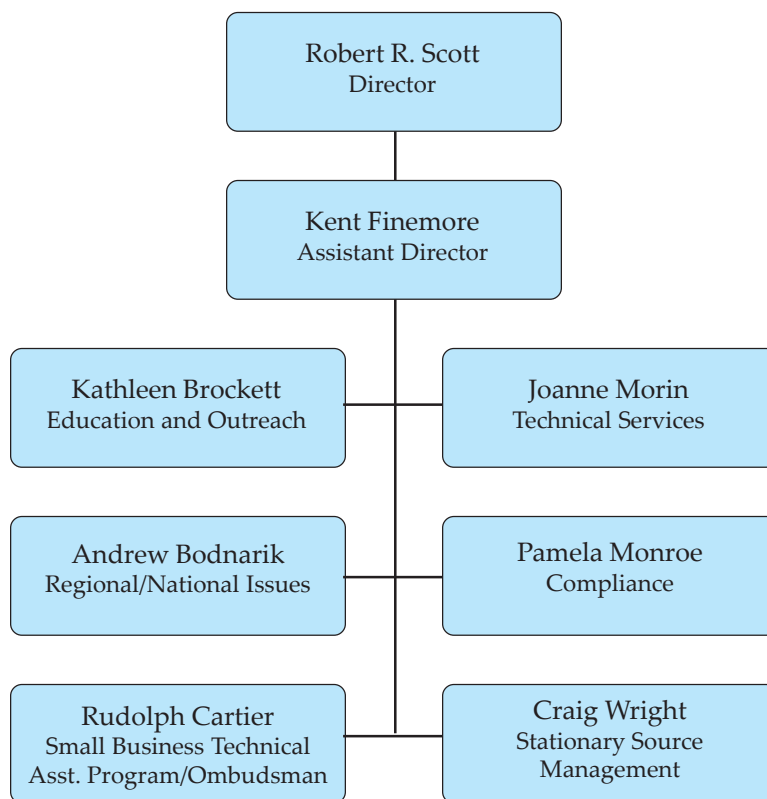
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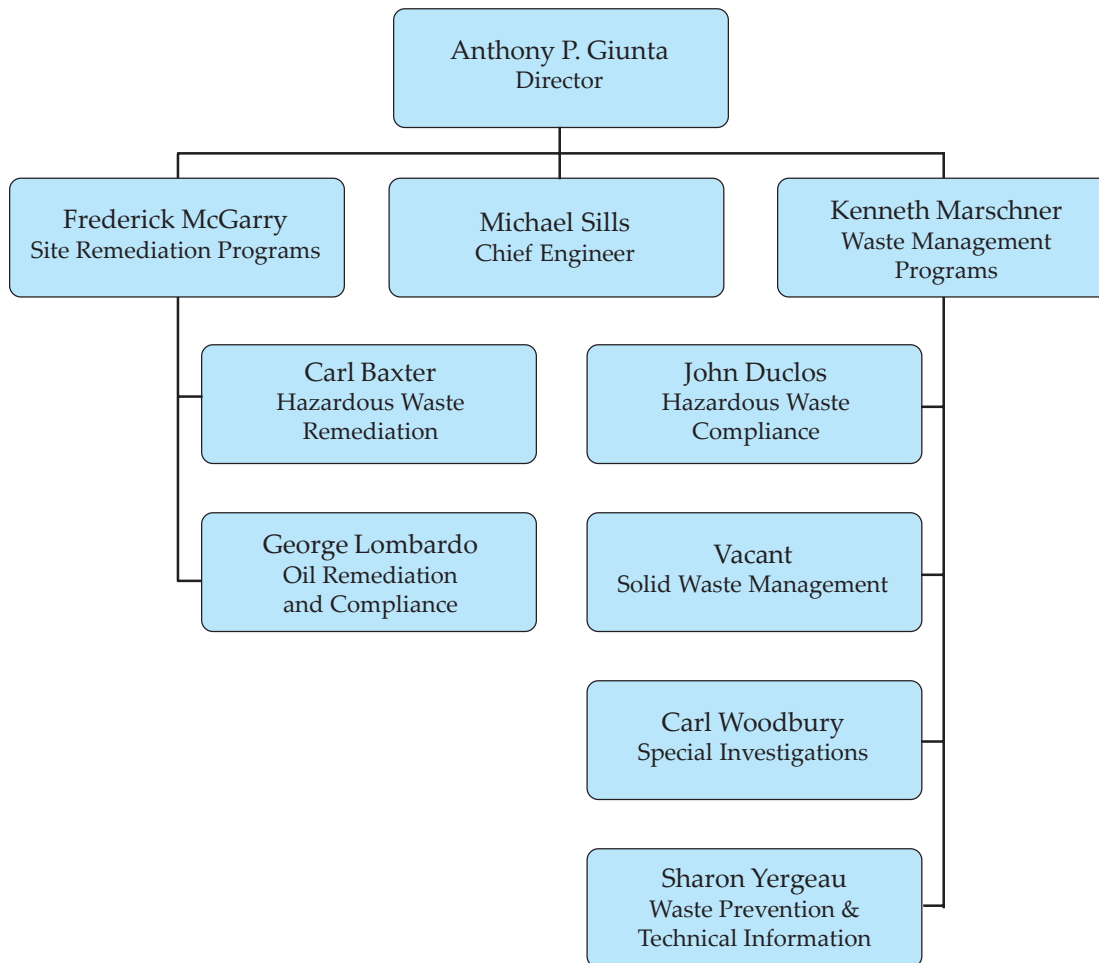
N.H. Department of Environmental Services
Office of the Commissioner
June 30, 2004



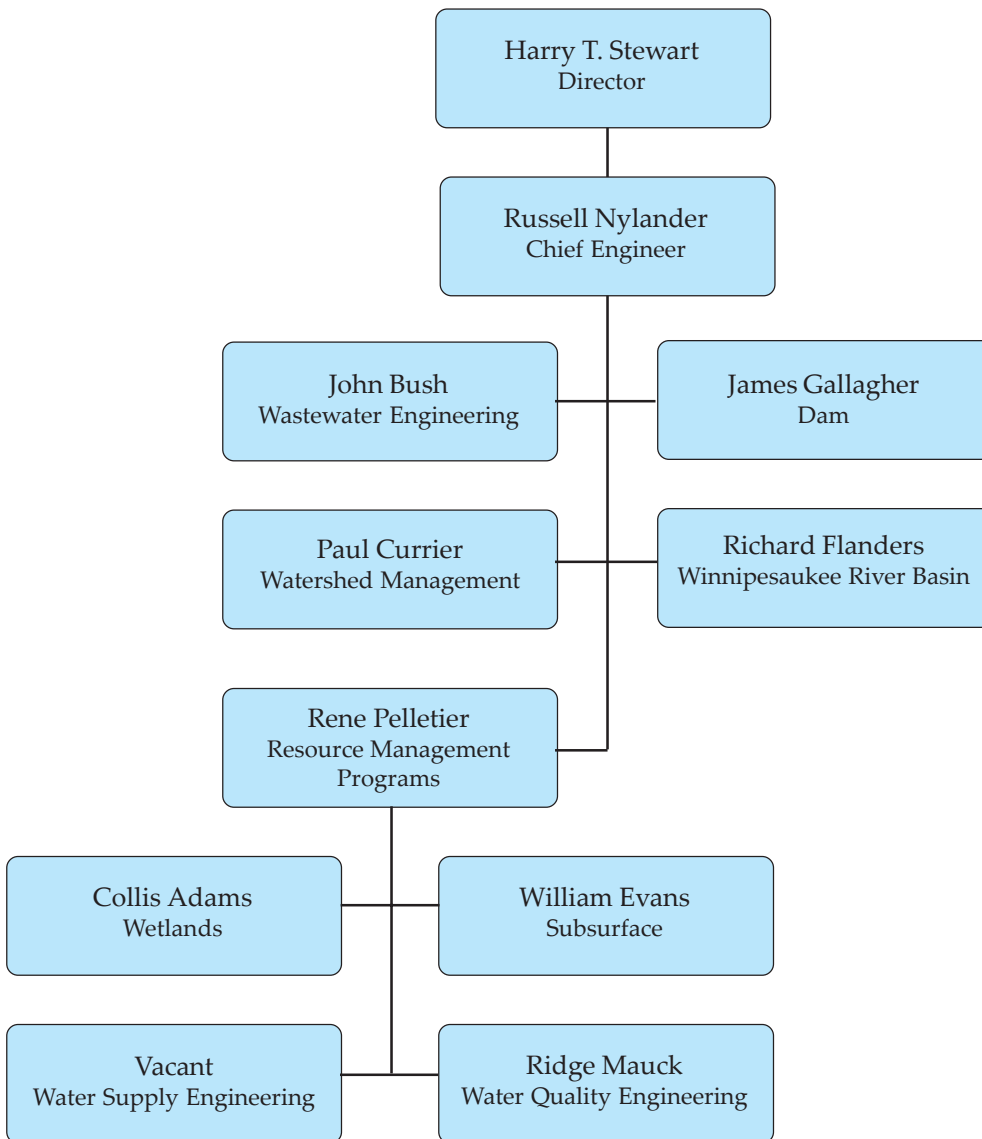
N.H. Department of Environmental Services
Air Resources Division
June 30, 2004



N.H. Department of Environmental Services
Waste Management Division
June 30, 2004



N.H. Department of Environmental Services
Water Division
June 30, 2004





Receipts and Expenditures for Fiscal Year 2004

Income and General Fund Appropriations¹

General Fund Appropriations	\$29,326,959
Federal Income	27,426,615
Fees and Registrations	24,193,167
State Revolving Fund Loan Repayments	23,757,799
Other Agency Income	7,131,284
Unrestricted Income	<u>3,537,070</u>
	<u>\$115,372,894</u>

Expenditures¹

State Revolving Fund Loans		\$30,538,081
Salaries and Benefits		29,224,609
Salaries	\$21,285,229	
Overtime	259,699	
Benefits	7,679,681	
State Aid Grants		15,609,555
Oil Fund Board Disbursements		15,652,885
Other Expenditures		2,982,706
Disbursements to State Agencies		2,681,762
General Services	1,037,655	
Administrative Services	617,341	
Attorney General	370,415	
Telecommunications	267,475	
Safety	160,176	
Mail Room	128,365	
Graphic Services	100,335	
Hazardous Waste Cleanup		2,556,073
Current Expenses		4,395,171
Equipment		963,508
Debt Service		866,593
Travel		<u>400,280</u>
		<u>\$105,871,224</u>

¹Excludes intraagency transactions.

Disbursements to Cities and Towns

State Revolving Fund Loans		\$30,538,081
Clean Water	\$21,060,915	
Drinking Water	9,468,745	
Brownfields	8,421	
State Aid Grants		15,609,555
Landfills	1,413,180	
Water Filtration	1,706,976	
Waste Water	12,489,399	
Other State Aid		429,141
Aquatic Weed Grants	228,766	
Household Hazardous Waste Grants	171,049	
Used Oil Grants	29,326	
Total		\$46,576,777

DES Personnel Data

Current Number of Employees	FY 2003	FY 2004
Unclassified	8	8
Classified	488	443
Temporary	<u>25</u>	<u>38</u>
Total	521	489

DES Physical Plant & Property Appraisal

	FY 2003	FY 2004
Equipment	\$10,623,835	\$10,557,665
Motor Vehicles	2,120, 175	2,349,005
Dams and Land	57,477,426	57, 262,375
Buildings	<u>32,347,392</u>	<u>32,548,992</u>
Total	\$102,568,828	\$102,718,037

